

IN THE MATTER OF:

**TURBO TITLE LOAN COMPANY
a/k/a TURBO TITLE LOAN,
a/k/a TURBOTITLELOAN.COM,**

Respondent.

**BEFORE THE MARYLAND
COMMISSIONER OF
FINANCIAL REGULATION**

Case No.: DFR-EU-2010-104

FINAL ORDER TO CEASE AND DESIST

WHEREAS, the Commissioner of Financial Regulation (the “Commissioner”) conducted an investigation into the business activities of Turbo Title Loan Company, a/k/a Turbo Title Loan, a/k/a TurboTitleLoan.com (the “Respondent”); and

WHEREAS, as a result of that investigation, the Deputy Commissioner of Financial Regulation (the “Deputy Commissioner”) found evidence to support that Respondent has engaged, and continues to engage, in acts or practices constituting a violation of a law, regulation, rule or order over which the Commissioner has jurisdiction, namely that Respondent has violated various provisions of the Annotated Code of Maryland, including Commercial Law Article (“CL”), Title 12, Subtitle 3, and Financial Institutions Article (“FI”), Title 11, Subtitle 2, (collectively the “Maryland Consumer Loan Law,” or “MCLL”); and

WHEREAS, the Deputy Commissioner issued a Summary Order to Cease and Desist and Order to Produce (the “Summary Order”) against Respondent on May 5, 2010 after determining that Respondent was in violation of the aforementioned provisions of Maryland law, and that it was in the public interest that Respondent immediately Cease and Desist from the following: making any loans to Maryland consumers; collecting or

attempting to collect on any loans previously made to Maryland consumers; and repossessing or attempting to repossess any automobile or other personal property identified as security or as a security interest in loans made to Maryland consumers; and

WHEREAS, the Summary Order notified Respondent of, among other things, the following: that Respondent was entitled to a hearing before the Commissioner to determine whether the Summary Order should be vacated, modified, or entered as a final order of the Commissioner; that the Summary Order would be entered as a final order if Respondent did not request a hearing within 15 days of the receipt of the Summary Order; that as a result of a hearing, or of Respondent's failure to request a hearing, the Commissioner may, in the Commissioner's discretion and in addition to taking any other action authorized by law, enter an order making the Summary Order final, issue penalty orders against Respondent, or take any combination of these actions; and that the Commissioner may also enter an order declaring that all consumer loans made by the Respondent in Maryland or otherwise involving Maryland consumers are unenforceable, that Respondent "may not receive or retain any principal, interest, or other compensation with respect to [these] loan[s] that [are] unenforceable," and that any liens which Respondent has placed on the automobiles or other personal property of Maryland consumers are illegal and unenforceable; and

WHEREAS, the Summary Order was properly served on Respondent via First Class U.S. Mail and Certified U.S. Mail; and

WHEREAS, Respondent failed to request a hearing on the Summary Order within fifteen (15) days of Respondent's receipt thereof and has not filed a request for a hearing as of the date of this Final Order to Cease and Desist (this "Final Order"); and

WHEREAS, the Commissioner has based her decision in this Final Order on the following determinations:

1. Pursuant to FI § 11-204, “[u]nless a person is licensed by the Commissioner, the person may not: (1) [m]ake a loan”

2. Pursuant to CL § 12-302, a “person may not engage in the business of making loans under this subtitle unless the person is licensed under or is exempt from the licensing requirements of Title 11, Subtitle 2 of the Financial Institutions Article, Annotated Code of Maryland, known as the Maryland Consumer Loan Law – Licensing Provisions.”

3. Pursuant to CL § 12-301(c), a “lender” means a person “who makes a loan under [Title 12, Subtitle 3 of the Commercial Law Article].”

4. Pursuant to CL § 12-301(e), a “loan” means “any loan or advance of money or credit made under [Title 12, Subtitle 3 of the Commercial Law Article].”

5. False advertising by lenders is prohibited by CL § 12-304(a), which provides as follows: “A lender may not directly or indirectly print, publish, distribute, or broadcast any false, misleading, or deceptive statement regarding the rates, terms, or conditions of a loan.”

6. CL § 12-306 specifies the maximum interest rates which a lender is permitted to charge on a loan under Title 12, Subtitle 3 of the Commercial Law Article. Section 12-306(a)(6)(i) provides as follows: “For any loan with an original principal balance of \$2,000 or less, 2.75 percent interest per month on that part of the unpaid balance not more than \$1,000 and 2 percent interest per month on that part of the unpaid principal balance that is more than \$1,000.” This section, therefore, permits a lender to

charge a maximum annual interest rate of 33 percent interest on unpaid principal balances up to \$1,000, and 24 percent on unpaid principal balances over \$1,000. Section 12-306(a)(6)(ii) provides: "For any loan with an original principal balance of more than \$2,000, the maximum rate of interest is 2 percent per month on the unpaid principal balance of the loan." This section only permits a lender to charge a maximum annual interest rate of 24 percent on the unpaid principal balance of the loan.

7. For loans subject to the MCLL which are secured by personal property, including loans secured by automobiles, CL § 12-306(a)(7)(iii) requires the following: "Upon the borrower's default, if the loan is secured by personal property, [that] the lender complies with § 12-115 of this title concerning repossession and redemption of the goods securing the loan." In turn, CL § 12-115 provides, in relevant part, as follows:

* * *

(c) *Notice prior to repossession - Contents.-*

(1) At least 10 days before he repossesses any goods, a lender may serve a written notice on the borrower of his intention to repossess the goods.

(2) The notice shall:

(i) State the default and any period at the end of which the goods will be repossessed; and

(ii) Briefly state the rights of the borrower in case the goods are repossessed.

(d) *Same - Service.-* The notice may be delivered to the borrower personally or sent to him at his last known address by registered or certified mail.

(e) *Notice after repossession.-* Within 5 days after he repossesses the goods, the lender shall deliver to the borrower personally or send to him at his last known address by registered or certified mail, a written notice which briefly states:

(1) The right of the borrower to redeem the goods, and the amount payable for them;

(2) The rights of the borrower as to a resale, and his liability for a deficiency; and

(3) The exact location where the goods are stored and the address where any payment is to be made or notice delivered.

(f) *Required period for lender to retain goods.*- For 15 days after the lender gives the notice required by subsection (e) of this section, the lender shall retain any repossessed goods.

(g) *Rights of borrower during period provided in subsection (f).*- During the period provided for in subsection (f) of this section, the borrower may:

(1) Redeem and take possession of the goods; and

(2) Resume the performance of the agreement.

(h) *Redemption.*- To redeem the goods, the borrower shall:

(1) Tender the amount due under the agreement at the time of redemption, without giving effect to any provision which allows acceleration of any installment otherwise payable

(2) Tender performance of any other promise for the breach of which the goods were repossessed; and

(3) If the discretionary notice provided for in subsection (c) of this section was given, pay the actual and reasonable expenses of retaking and storing the goods.

* * *

8. Interest on unpaid loan balances and computation of interest are discussed

in CL §§ 12-306(b) and 12-306(d), respectively, which state the following:

(b) *Interest on balance unpaid after original maturity date.*-

If any principal balance remains unpaid 6 months after the loan matures as originally scheduled or deferred, the lender may not contract for, charge, or receive interest at a rate exceeding 6 percent simple interest per annum on the actual unpaid principal balances from time to time.

* * *

(d) *Computation of interest.*-

(1) The lender shall compute interest on the actual unpaid principal balances outstanding from time to time, and he may not contract for, charge, or receive interest in advance or compounded interest.

(2) For each day on which an unpaid principal balance is outstanding, the lender may charge on that unpaid balance 1/30th of the interest permitted under this subtitle to be charged for 1 month.

* * *

9. CL § 12-307 ("Collection of certain fees") provides, in relevant part, as follows:

(a) *In general.*- At the time a loan is made, a lender may collect from the borrower:

(1) As to any item of the total property that secures a loan:

(i) The fees paid to a public official or governmental agency for recording or satisfying a mortgage, encumbrance, or lien on any property securing the loan; or

* * *

(b) *Bad check fee.*- A lender may collect from the borrower a fee not exceeding \$15 if payment is made with a check that is dishonored on the second presentment.

10. Pursuant to CL § 12-307.1, lenders are limited in the amount of attorney's fees and court costs that they are permitted to charge and collect:

(a) *Lender may collect court costs and attorney's fees from borrower.*- On any loan with an original principal balance of more than \$2,000, if a borrower defaults under the terms of a loan and the lender refers the borrower's account for collection to an attorney who is not a salaried employee of the lender, and if the note, contract, or other evidence of the loan permits, the lender may charge and collect from the borrower court costs and attorney's fees not exceeding 15 percent of the amount due and payable under the terms of the loan.

(b) *Same - Loans of \$2,000 or less.*- On any loan with an original principal balance of \$2,000 or less, if a borrower defaults under the terms of a loan and the lender refers the borrower's account for collection to an attorney who is not a salaried employee of the lender, and if the note, contract, or other evidence of the loan permits, the lender may recover from the borrower court costs and attorney's fees not exceeding 15 percent of the amount due and payable under the terms of the loan, to be set by the court in the event of the filing of suit.

11. CL § 12-308 sets forth various duties that lenders have towards borrowers, including, but not limited to, the duty to provide a statement containing specific language and provisions at the time the loan is made (CL § 12-308(a)), the duty to provide receipts

for payments (CL § 12-308(b)), the obligation to permit prepayment of the loan, in full or in part, without penalty (CL § 12-308(c)), the duty to provide specific documents after full repayment of the loan (CL § 12-308(d)), and the duty to provide a written statement of the account upon request from the borrower (CL § 12-308(e)).

12. Pursuant to CL § 12-313(a)(1), a lender may not “[d]irectly or indirectly contract for, charge, or receive any interest, discount, fee, fine, commission, charge, brokerage, or other consideration in excess of that permitted by this subtitle.”

13. CL § 12-314 provides, in relevant part, as follows:

(a) *Prohibited.* – A person may not lend \$6,000 or less if the person directly or indirectly contracts for, charges, or receives a greater rate of interest, charge, discount, or other consideration than that authorized by the laws of this State.

(b) *Loans unenforceable; exceptions.* –

(1) A loan made in the amount of \$6,000 or less, whether or not the loan is or purports to be made under this subtitle, is unenforceable if a rate of interest, charge, discount or other consideration greater than that authorized by the laws of this State is contracted for by any person unless the excess rate contracted for is the result of a clerical error or mistake and the person corrects the error or mistake before any payment is received under the loan.

(2) The person who is neither a licensee nor exempt from licensing may not receive or retain any principal, interest, or other compensation with respect to any loan that is unenforceable under this subsection.

* * *

(c) *Transactions made in another state.* – This section does not apply to a loan transaction validly made in another state in compliance with a similar loan law of that state. However, a lender may not collect an amount that is more than the total amount that would be permitted if this subtitle were applicable. This section applies to all loans made by a lender domiciled in another state to a borrower who is a resident of this State if the application for the loan originated in this State.

14. Pursuant to CL § 12-315, the provisions of Title 12, Subtitle 3 “shall be interpreted and construed to effectuate its general remedial purpose.”

15. The following relevant and credible evidence, obtained pursuant to the Commissioner’s investigation, was considered in the issuance of the Summary Order: internet and e-mail marketing materials by Respondent; written communications between Respondent and Maryland residents, and between Respondent and the Commissioner; Respondent’s standard written contract for “auto title loans” with Maryland residents; statements by Maryland residents who had entered into auto title loans with Respondent; and the Division’s licensing records. More particularly, this evidence supports the following findings:

a. Respondent is an Illinois company that advertises its lending services on the internet at <http://turbotitleloan.com/>, including to residents of Maryland.

b. [REDACTED] (hereinafter “Consumer A”), a Maryland resident, applied for a loan from Respondent by completing and submitting an on-line loan application while he was located in Maryland. Consumer A believed that he was offered a loan with an annual interest rate of 15%. Respondent deceptively advertised online an interest rate of 15%--although as a per-month rather than a per-annum rate as would customarily be expected by a consumer.

c. Respondent and Consumer A entered into a consumer loan agreement on or about July 21, 2009 that was entitled “Installment Loan and Security Agreement.” Pursuant to this agreement, Respondent provided a \$2,000 loan to Consumer A, plus a \$20 fee, for a total principal balance of \$2,020, in exchange for which consumer A was required to make 12 monthly payments of \$438.13, for a total

payment of \$5,257.56. This constitutes an annual interest rate of 260%. Further, collateral for the loan was the title to Consumer A's automobile, a 2004 [REDACTED], VIN [REDACTED], which Respondent recorded as a lien against the vehicle with the Maryland Motor Vehicle Administration.

16. Respondent's transaction with Consumer A constituted a "loan" under CL § 12-301(e), and the Respondent and its "Installment Loan and Security Agreement" are subject to the MCLL, which the Commissioner is charged with enforcing.

17. Respondent is not licensed by the State of Maryland to make consumer loans, nor is it exempt from licensing under the MCLL. As such, Respondent's unlicensed consumer lending activities in Maryland violate the licensing provisions of the MCLL cited above, including FI § 11-204 and CL § 12-302.

18. The loan which Respondent made to Consumer A involved a usurious rate of interest, far in excess of the 24% annual interest rate permitted for this transaction under CL § 12-306(a)(6). As such, Respondent violated the following provisions of the MCLL: CL §§ 12-306(a)(6), 12-313(a)(1), 12-314(a), 12-314(b)(1), 12-314(b)(2), 12-314(c).

19. Respondent's written agreement also contains various other terms which violate the provisions of the MCLL cited above, including the following contract terms: authorizing the Respondent to repossess and sell the secured automobile without providing the required disclosures, notices, or otherwise adhering to the requirements set forth in CL § 12-115 (in violation of CL § 12-306(a)(7)(iii)); permitting interest to be charged on collection costs and other fees apart from the principal of the loan (in violation of CL §§ 12-306(b), 12-306(d), 12-307.1, 12-308, 12-313(a)(1)); charging

excessive late fees that are calculated as a percentage of the installment payment due, rather than as a percentage of the principal (in violation of CL §§ 12-306(b), 12-306(d), 12-307.1, 12-308, 12-313(a)(1)); collecting a “bad check fee” of \$25 (in violation of CL § 12-307(b)); and charging impermissible and excessive attorneys fees and court costs (in violation of CL § 12-307.1).

20. Respondent’s internet advertising also constituted deceptive advertising in violation of CL § 12-304(a) of the MCLL. Specifically, by advertising an interest rate of 15%, and by failing to identify the true annual interest rate, Respondent deceived Consumer A into believing that this was the annual interest rate, when in fact the annual rate was 180% (15% x 12 months). Moreover, even had Consumer A known that the 15% monthly rate corresponded to an annual rate of 180% (which in fact he did not know), the advertised monthly rate of 15% was still patently false as the actual annual interest rate on the loan that Consumer A received was 260% (not 180%).

21. Pursuant to CL § 12-314(b)(1), as Respondent’s loan to Consumer A contains a “rate of interest, charge, discount or other consideration greater than that authorized by the laws of this State,” Respondent’s loan to Consumer A is unenforceable. Further, pursuant to CL § 12-314(b)(2), Respondent (who is neither licensed nor exempt from licensing), “may not receive or retain any principal, interest, or other compensation with respect to any loan that is unenforceable under this subsection.” It follows that, not only is Respondent’s loan to Consumer A unenforceable, but that Respondent is prohibited from collecting the principal amount of its loan from Consumer A or from collecting any other money related to that loan. It also follows that the lien Respondent placed on Consumer A's automobile is illegal, unenforceable, and therefore does not

operate as a valid security interest in that vehicle. The release of a security interest in a motor vehicle is subject to Md. Code Ann., Transp. II (“Transp.”) § 13-205(c); the Maryland Motor Vehicle Administration has the authority to remove a security interest from a motor-vehicle title, and issue a new title, subject to notice and hearing as set forth in Transp. § 13-205(d).

22. FI §§ 2-114(a) and (b) set forth the Commissioner’s general authority to order the production of information, as well as documents and records, while investigating potential violations of laws, regulations, rules, and orders over which the Commissioner has jurisdiction (which is in addition to the Commissioner’s specific investigatory authority set forth in various other Maryland statutes and regulations). Thus, for example, FI § 2-114(a)(2) provides that the Commissioner may “[r]equire ... a person to file a statement in writing, under oath or otherwise as the Commissioner determines, as to all the facts and circumstances concerning the matter to be investigated.” Further, pursuant to FI § 2-114(b), “the Commissioner or an officer designated by the Commissioner may,” among other things, “take evidence, and require the production of books, papers, correspondence, memoranda, and agreements, or other documents or records which the Commissioner considers relevant or material to the inquiry.”

23. FI § 11-214 discusses the Commissioner’s investigatory powers under the MCLL, providing as follows:

- (a) *Persons subject to investigation.*- To discover any violations of the Maryland Consumer Loan Law, the Commissioner, at any time and as often as the Commissioner considers appropriate, may investigate the loans made by and the business of:
 - (1) Any licensee; or

(2) Any other person who makes a loan or on whose behalf a loan is made, whether or not that person:

(i) Acts or claims to act as a principal, agent, or broker; or

(ii) Acts or claims to act under the Maryland Consumer Loan Law.

(b) *Access; examination under oath.*- For the purposes of this section, the Commissioner:

(1) Shall be given access to any books, papers, records, safes, or vaults of the person under investigation; and

(2) May examine under oath any person whose testimony the Commissioner requires.

24. Pursuant to the Commissioner's authority to conduct investigations under FI §§ 2-114 and 11-214, the Deputy Commissioner issued a subpoena to Respondent on January 5, 2010, ordering it to provide all documents in their control in any way related to its lending activities pertaining to Consumer A's loan by January 19, 2010. Respondent has never produced the documents required by this subpoena, and thus is in violation of FI §§ 2-114 and 11-214. Further, Respondent, by and through its attorney, Andrew D. Ross, Esq. of Brauer & Ross, Ltd. of Chicago Heights, Illinois, stated in a letter dated January 20, 2010 (after the due date specified in the subpoena), that it would not comply with the subpoena, citing to "restrictions of the Privacy Act concerning [Consumer A's] ... loan." This knowing refusal to comply with the subpoena constitutes a willful violation of FI §§ 2-114 and 11-214.

25. Pursuant to the Commissioner's authority to conduct investigations under FI §§ 2-114 and 11-214, the Deputy Commissioner issued an Order to Produce (in conjunction with the Summary Order) on May 5, 2010, ordering Respondent to provide to the Commissioner within 15 days of receipt of the Summary Order a detailed list of all loan agreements that Respondent had entered into with Maryland consumers since January 1, 2006. Respondent has not produced the documents required by this Order to

Produce, and as the specified due date has passed, Respondent is in violation of FI §§ 2-114 and 11-214.

NOW, THEREFORE, having determined that Respondent waived their right to a hearing in this matter by failing to request a hearing within the time period specified in the Summary Order, and pursuant CL §§ 12-302, 12-303, 12-304, 12-306, 12-308, 12-310, 12-313, 12-314, and FI §§ 2-115(a), 2-115(b), 11-215, and 11-217, it is, by the Maryland Commissioner of Financial Regulation, hereby:

ORDERED that the Summary Order to Cease and Desist issued by the Deputy Commissioner against Respondent on May 5, 2010, is entered as a Final Order of the Commissioner as modified herein, and that Respondent shall permanently **CEASE** and **DESIST** from making unlicensed consumer, installment, or any other loans to Maryland consumers; and that Respondent shall permanently **CEASE** and **DESIST** from collecting or attempting to collect on any loans previously made to Maryland consumers; and that Respondent shall permanently **CEASE** and **DESIST** from repossessing or attempting to repossess any automobile or any other personal property identified as security or as a security interest for the aforementioned loans to Maryland consumers; and it is further

ORDERED that, Respondent shall release the lien on Consumer A's automobile pursuant to Md. Code Ann., Transp. II § 13-205(c); and it is further

ORDERED that, pursuant to FI § 2-115(b), and upon careful consideration of (i) the seriousness of Respondent's violations; (ii) the lack of good faith of Respondent, (iii) the history and ongoing nature of Respondent's violations; and (iv) the deleterious effect of Respondent's violations on the public and on the lending industry, Respondent shall

pay to the Commissioner a total civil penalty in the amount of **FIVE THOUSAND DOLLARS (\$5,000)**, which consists of the following:

<i>Prohibited Activity and Violation</i>	Civil Penalty per Violation	x Number of Violations	= Penalty
<i>Unlicensed Activity in Violation of MCLL</i>	\$1,000	1 Md. Consumer	\$ 1,000
<i>Charging Usurious Interest Rate</i>	\$1,000	1 Md. Consumer	\$ 1,000
<i>False and Deceptive Advertising</i>	\$1,000	1 Md. Consumer	\$ 1,000
<i>Violations of FI §§ 2-114 and 11-214</i>	\$1,000	2 Separate Failures to comply	\$ 2,000
		TOTAL	\$ 5,000

and it is further,

ORDERED that Respondent shall pay to the Commissioner, by cashier's or certified check made payable to the "Commissioner of Financial Regulation," the amount of \$5,000 within fifteen (15) days from the date of this Final Order; and it is further

ORDERED that, pursuant to CL § 12-314, the agreement which Respondent entered into with Consumer A, the Maryland consumer described herein, is illegal and unenforceable, and that Respondent may not retain any principal, interest, or other compensation with respect to that loan; and it is further

ORDERED that the lien which Respondent recorded against Consumer A's automobile, a 2004 [REDACTED], VIN [REDACTED] with the Maryland

Motor Vehicle Administration is illegal, unenforceable, and therefore does not operate as a valid security interest in that vehicle; and it is further

ORDERED that, pursuant to CL § 12-314, Respondent shall pay restitution to Consumer A in an amount equal to all payments which Consumer A has made on his loan as of the date of this Final Order, and shall refund to consumer any payments made by Consumer A subsequent to this Final Order; and it is further

ORDERED that Respondent shall pay the required restitution to Consumer A within 30 days of this Final Order being signed. Respondent shall make payment by mailing to this consumer a check via First Class U.S. Mail at the most recent address of the consumer known to the Respondent. If the mailing of this payment is returned as undeliverable by the U.S. Postal Service, Respondent shall promptly notify the Commissioner in writing for further instruction as to the means of the making of said payment. Upon the making of the required payment, the Respondent shall furnish evidence of having made the payment to the Commissioner within fifteen (15) days, which evidence shall consist of a copy of the front and back of the cancelled check for this payment; and it is further

ORDERED that Respondent shall send all correspondence, notices, civil penalties and other required submissions to the Commissioner at the following address:

Commissioner of Financial Regulation, 500 North Calvert Street, Suite 402, Baltimore,
Maryland 21202, Attn: Administrator.

9 June 2010
Date

Sarah Bloom Raskin
Sarah Bloom Raskin
Commissioner of Financial Regulation